

Citation: *R. v. Beebe*, 2012 YKTC 10

Date: 20120109  
Docket: 11-00288  
11-00288A  
11-00288B  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before: His Honour Chief Judge Cozens

REGINA

v.

JOHN RICHARD BEEBE

Appearances:  
Kevin MacGillivray  
Brook Land-Murphy

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCING**

[1] COZENS C.J.T.C. (Oral): John Beebe has entered a guilty plea to one charge under s. 334 of the *Criminal Code* and one charge under s. 145(3).

[2] The circumstances of the s. 334 charge are that on June 27, 2011, Mr. Beebe stole \$46 worth of meat from Extra Foods. He was apprehended at the time. Police were called, and upon the police attending, in the investigation, they learned that he had also stolen \$104 worth of food from Extra Foods on June 20th, thus we have two separate incidents of theft. He was released on an undertaking given to a peace officer with two terms; keep the peace and be of good behaviour, and do not attend within 100 metres of Extra Foods.

[3] Subsequently, on October 3rd, Mr. Beebe made his first appearance in the Community Wellness Court and started working on a wellness plan. On October 24, 2011, a plea was entered at which point in time his undertaking to an officer was replaced with an undertaking to a justice or judge. This was the standard Community Wellness Court form of undertaking, which included a number of additional terms related to an individual's participation in this Court. These are terms requiring him to take counselling and programming, attend treatment team meetings, and to abstain absolutely from the possession or consumption of alcohol, in addition to other terms.

[4] He was located on December 1st, intoxicated on a couch in a residence, in breach of the abstention clause of his undertaking imposed on October 24th. He was released after five days in custody on pretty much the identical undertaking, except that there was a term that he be released to a staff member at the Yukon ARC.

[5] On or about December 15th, he came back to the ARC under the influence of alcohol, contrary to the rules of the ARC residence and the terms of his undertaking. He appeared in court on December 19th and has been in custody ever since, thus in total he has 27 days of pre-trial custody.

[6] He has a somewhat limited criminal record, although there are six related theft entries. In 1974, there was a fraud related to obtaining of transportation, for which he spent seven days in custody. Since then, he has not spent any time in custody. There was a long gap in his record, from 1975 to 2008, and then in 2010, twice in Whitehorse, he was arrested on theft charges and received \$200 fines on each occasion.

[7] There is a Pre-Sentence Report that was prepared for October 5th prior to his

decision to enter into Community Wellness Court. Without going through the report in great deal, it indicates that Mr. Beebe had a very difficult childhood. He was in and out of foster homes with his two siblings 15 times between the ages of seven and 11. His mother suffered from drug addiction and died as a result of her addiction. Mr. Beebe spent a lot of his teenage years at home helping and caring for his mother, and he indicates that he dropped out of school in Grade 8, fearful that he would come home from school and find her dead, so he decided to stay home and try to care for her.

[8] He has suffered from a very significant, long-standing alcohol and drug addiction problem. He has a severe level of problems with respect to his addiction to alcohol and a substantial level of problems with respect to his drug addiction issues. He is noted to be at a high risk of reoffending. He has stolen to support his alcohol addiction. He has stolen while under the influence of alcohol, as I understand it.

[9] He suffers from some mental health issues including Obsessive-Compulsive Disorder. He is on medication. He met with Dr. Heredia and he maintains the medication he was on at that time to this point in time, although he has not had further involvement with the mental health program. He completed ten of the 12 sessions of the Substance Abuse Management Program. However, he was arrested and did not complete the last two sessions. He has been involved with AA and he has a sponsor.

[10] His big problem is residency. He is out of the ARC right now. He is in custody. He is unable to get stable residence, it appears, right now, and so has made the decision to not participate further in the Community Wellness Court, but to seek a disposition and pursue his rehabilitative prospects afterwards. He spends a majority of

the money he gets from Social Assistance on alcohol. He has been through drug and alcohol programs seven times. He tends to do all right at first, and then relapses within four to six months.

[11] The recommendations in the report were that Mr. Beebe's best chance of recovery was through integrated treatment for both the substance abuse program and the mental health problem. That means getting combined mental health and addiction treatment from the same treatment provider or team. The author of the Pre-Sentence Report indicates that:

If left untreated, the chances of Mr. Beebe committing similar offences in the future and finding himself in conflict with the law are extremely high.

If given a community disposition, Mr. Beebe could be connected with the appropriate professionals he needs in order to recover. Mr. Beebe could benefit from getting connected with the Second Opinion Society, Alcohol and Drug Services, Mental Health Services, maintaining continual check-ins with his family doctor for medication management.

[12] It has been a long time since Mr. Beebe spent time in jail and, as I indicated when I spoke to him, while the immediate impact of being in jail might change his thought processes, he has had a number of opportunities in the past through treatment programs to change his thought processes and has simply not held on to these changes in enough of a way to separate himself entirely from the ravages that alcohol and drugs have worked on his life. He needs to find a different reason than perhaps what he has used in the past to get himself free of his problem, and he needs to focus on the positives that would come not only into his life but into the lives of his daughter, who he

has contact with, and granddaughter, and perhaps with respect to his siblings and the son that he has no contact with. Those are choices he needs to make.

[13] With respect to the s. 334 charge, \$200 fines were imposed on two such charges in 2010. We are dealing with two instances, but one charge in 2012, although they arose in 2011. The sentence with respect to the theft charge will be 15 days time served. With respect to the alcohol abstention breach, we are dealing with two instances. I note, however, that the alcohol abstention clause was placed on him as a result of his willingness to participate in the Community Wellness Court. I understand that he is fairly early in the process, and while recognizing he has the two breaches, he was making at least some efforts in the SAM program. This is not a case where we have had a long participation in Community Wellness Court for which a lot of credit is going to be given. That said, in the circumstances in which these breaches occurred, the sentence I am going to impose, recognizing that there were two instances, is going to be 15 days consecutive, time served. That leaves three days, which will give you enough time to maybe make some contacts. After remission, it is only a couple of more days in custody.

[14] I am going to, in light of this as well, place Mr. Beebe on a period of probation. The probation term will be for a period of nine months, longer than I might have, but because treatment is so important in this case, I think nine months is the minimum required to do that. You will be required to:

1. Keep the peace and be of good behaviour;
2. Appear before the Court when required to do so by the Court;

3. Notify the Probation Officer in advance of any change of name or address and promptly notify the Probation Officer of any change of employment or occupation;
4. Report to a Probation Officer immediately upon your release from custody and thereafter, when and in the manner directed by the Probation Officer;
5. Reside as approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;
6. Not attend any bar, tavern, off-sales or other commercial premises whose primary purpose is the sale of alcohol;

I am not putting you on an abstention clause. You are going to have to not drink on your own, and we are not dealing with an offence of violence against a person precipitated by the use of alcohol. However, I see no reason why, as an alcoholic struggling, that you would ever have a reason to go to a bar. That is just setting yourself up for failure by a different choice.

7. You are to take such alcohol and drug assessment, counselling or programming as directed by your Probation Officer;
8. You are to take such psychological assessment, counselling and programming as directed by your Probation Officer;
9. You are to take such other assessment, counselling and programming as directed by your Probation Officer;
10. You are to perform 20 hours of community service as directed by your Probation Officer or such other person as your Probation Officer may

designate. Any hours spent in assessment, counselling or programming may, in the discretion of the Probation Officer, be counted as hours towards your community work service;

11. You are to participate in such educational or life skills programming as directed by your Probation Officer;
12. You are to make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts;
13. You are to provide your Probation Officer with consents to release information with regard to your participation in any programming, counselling, employment or educational activities you have been directed to do pursuant to this probation order.

[15] It may be long; it is not restrictive. It is designed purely for one thing: to give you additional support and tools, should you make the right choices, to help you maintain those right choices.

[16] I am going to waive the victim fine surcharges.

[17] MR. MACGILLIVRAY: If not both, which sentence is the probation order tied to, Your Honour?

[18] THE COURT: It will just be tied to the s. 334 charge. The remaining count?

[19] MR. MACGILLIVRAY: The Crown directs a stay.

[20] THE COURT: A stay of proceedings.

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COZENS C.J.T.C.